



Michael O. Leavitt
Governor

State of Utah
Department of Transportation

John R. Njord, P.E.
Executive Director

January 13, 2003

Young Electric Sign Company
Mr. Matt Short
2767 Industrial Drive
P.O. Box 1880
Ogden, UT 84402-1880

Subject: Findings and Order - File No. 02-1-3 - Milepost 369.8 Wayne Bellau Property

Dear Mr. Short:

Enclosed are the Findings and Order with respect to the hearing held December 2, 2002. We appreciate your time and effort in working with us in this matter. I remind you that should you desire to pursue your appeal further that you have 30 days to file a court action.

Sincerely,

David K. Miles, P. E.
Hearing Officer

DKM:js

cc: Luana Middleton
Lyle McMillan
Fran Rieck
James H. Beadles
Carlos Bracerias
Mark Burns

Utah!
Where ideas connect™

FINDINGS AND ORDER

Young Electric Sign Co. v. Region One, File No. 02-1-3 – Milepost 369.8 Wayne Bellau Property

Region One denied Young Electric's permit application on August 15, 2002. Permit Officer Luana Middleton based her denial on measurements showing that the requested site was only 108 feet from the point of pavement widening, as Region One interprets the term, on the entrance to the main-traveled way. Both Utah law and the Utah-Federal Agreement for the Control of Outdoor Advertising (Agreement) prohibit advertising signs (absent some exceptions) within 500 feet of an interchange.¹ The sign company says the relocation is needed because of recently installed power lines.

Utah law defines interchange as "those areas and approaches where traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other route." Utah Code Ann. § 72-7-502(9). The parties disagree on the location of the point of beginning and ending of pavement widening. Because the correct location of the point of beginning is the point at which the acceleration lane begins, it is the essential issue in this case.

UDOT has defined the term "acceleration lane" in administrative rule. Utah Admin. Code R933-2-3(2) states "[A]n acceleration lane begins and ends at a point no closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way."²

Young Electric claims that the rule requires UDOT to measure the 500 feet from the point of beginning of pavement widening. That is correct. Young Electric is incorrect, however, about the location of the point of beginning. Pavement widening begins where the ramp ends and the pavement starts to parallel the main-traveled way. That is the point at which the main-traveled way expands in width and is the point of beginning of pavement widening. Region One has properly measured from this distance and concluded that the proposed sign is within the prohibited 500 feet zone.

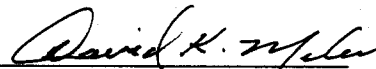
¹ Young Electric currently has a sign that is 414 feet from the interchange. Although this sign is also within the prohibited 500-foot length, it was grandfathered in and is legal as a nonconforming sign.

² Though the legislature has not defined "acceleration lane," it has given UDOT the authority to issue administrative rules to "control the erection and maintenance of outdoor advertising" and "provide for enforcement" of the code. Utah Code Ann. § 72-7-506(1).

Young Electric's brief also claims that a power line change required that it move its sign under Utah Code Ann. § 72-7-516. However, that law allows movement only to the minimal necessary distance to comply with appropriate codes. Young Electric never submitted evidence that would establish that minimum necessary distance or even the existence of the claimed power line.³ This lack of evidence compels UDOT to dismiss Young Electric's arguments on this point.

Young Electric's brief implies that the reason for the change in location was to assist the landowner to develop his land, not to move away from a power line: "The property owner made us aware that it was pursuing development on its land, such that the sign would have to be moved to the north end of the site." (Young Electric Correspondence, October 22, 2002, page 2.) A sign company may be entitled to a change in location when UDOT construction requires relocation of the sign, but not when private construction makes relocation convenient for the company and the landowner. That is an issue between Young Electric and the landowner.

I affirm Region One's denial of the permit application.⁴


David K. Miles, P.E.
UDOT Hearing Officer

cc: Ahmad Jaber
Luana Middleton
Lyle McMillan
Fran Rieck
James H. Beadles
Carlos Braceras

³ Moving the sign would only be "necessary" implies that the sign company has taken all reasonable steps to protect its workers or otherwise comply with the electrical codes **before** moving the sign (and even then it can only be moved a "minimal" distance). Young Electric provided no evidence that it had taken other steps to comply with the national electric code.

⁴ Pursuant to Utah Code Ann. § 63-46b-15, you may appeal this final order to district court by filing a complaint no later than 30 days after issuance. In the alternative, you may petition UDOT for reconsideration of this decision. If UDOT denies that petition, you are also entitled to an appeal 30 days after issuance of that decision.